



Ord. #5581

**ORDINANCE TO AMEND CHAPTER 9-12 OF THE CITY OF
MEMPHIS, CODE OF ORDINANCES TO ADJUST THE ANNUAL
STATIONARY SOURCES EMISSIONS FEE AMOUNT AND TO
ADJUST ANNUAL TITLE V SOURCE FEES BEGINNING IN 2015.**

WHEREAS, On June 30, 1969, the operation of the local air pollution program was established and served to continuously protect air quality in Memphis and Shelby County and efficiently meet the needs of those regulated by air pollution control laws; and

WHEREAS, Title V of the Clean Air Act of 1990 requires air pollution control programs which operate a major source operating permit program to establish a fee structure sufficient to fund all direct and indirect costs of such a program; and

WHEREAS, The Council of the City of Memphis (Council) has previously established a fee system to administer and collect emissions fees, annual inspection/operating fees and associated fees based on the cost of providing this regulatory oversight, which has also been adopted in unincorporated Shelby County and all other municipalities in Shelby County; and

WHEREAS, The Shelby County Health Department has caused to be published on September 1, 2014, in a paper having general circulation in Shelby County, Tennessee, notice of the September 18, 2014, meeting of the Memphis and Shelby County Air Pollution Control Board (Board) to review program operating expenses, emissions subject to fees, and to discuss possible adjustments to the current fee structure; and

WHEREAS, A quorum of the Board met on September 18, 2014, and reviewed options for changing the Section's fees charged to the major stationary sources located in Shelby County and voted to recommend an increase of the yearly Emission Fee to \$48.00 per ton of regulated emissions (excluding carbon monoxide), and that said fee shall remain at this rate once approved until such time as the Council approves a further increase or decrease, and that the major stationary source Title V Annual Permit Fee shall increase from \$1,000.00 to \$2,000.00.

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF
MEMPHIS, TENNESSEE**, that the Sec. 9-12-36(A)(1) of the City of Memphis Code of Ordinances, is deleted and replaced by a new Subsection (1) which reads as follows :

- (1) \$48.00 per ton of actual emissions emitted during calendar year 2013 to be collected beginning in 2015 and for successive years until such time as the Council approves a

further increase or decrease, not including fugitive emissions and actual excess emissions that are the result of process malfunctions and facility start-up and shutdown determined by the health department to be in compliance with the air pollution code sections that excuse these emissions from enforcement of each regulated pollutant as defined in section 502(b)(3)(B)(ii) of the Federal Clean Air Amendments of 1990.

BE IT FURTHER ORDAINED BY THE COUNCIL OF THE CITY OF MEMPHIS, that Section 9-12-35, Subsection (B), Item (e) is amended by changing the Inspection/operating permit fee owed by Major Stationary Sources from \$1,000.00 to \$2,000.00, and this Section shall now read as follows:

Sec. 9-12-35. - Permit fee schedule.

Fees for permits are hereinafter set out as follows, and shall apply to any person as defined in this article:

A. Construction permits.

1. Any person making application to the Shelby County Health Department for a construction permit shall pay an initial filing fee of \$200.00 per permit unit. This filing fee shall not be refundable if the permit is denied or if the application is withdrawn, nor shall it be applied to any subsequent application.

2. In addition to the fees in subsection (A)(1) of this section, the largest of the following fees, if applicable, shall be paid:

a.	Prevention of significant deterioration (PSD) review	\$3,960.00
b.	Major source or major modification review, except PSD sources review, requiring modeling	\$2,640.00
c.	Minor source or minor modification review, requiring modeling	\$660.00
d.	New resource performance standard (NSPS) source review, per permit unit	\$660.00
e.	National Emission Standards for Hazardous Air Pollutant (NESHAP) source review, per permit unit	\$660.00

B. Inspection/operating permit.

1. Any person making application to the Shelby County Health Department for an inspection/operating permit shall pay the larger of the applicable fees in accordance with the following schedule:

a.	Asbestos demolition/renovation removal, per notice	\$130.00
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b.	Air curtain destructor, per permit unit	\$130.00
c.	NSPS source, per permit unit	\$130.00
d.	NESHAP source, per permit unit	\$130.00
e.	Any source issued a permit pursuant to local rules implementing Title 40, Code of Federal Regulations, Section 70 (Major Source Permits)	\$2,000.00
f.	Any permit unit with actual emissions of 50 tons or more a year, but less than 100 tons per year of any single pollutant	\$130.00
g.	Any permit unit with actual emissions of 25 tons or more per year, but less than 50 tons per year of a single pollutant	\$100.00
h.	Any permit unit with actual emissions of less than 25 tons per year of a single pollutant	\$65.00
i.	Any permit issued as the result of a permit by rule or annual notification and general standards application to a particular business or business group	\$130.00
j.	Any source issued an operating permit for which a construction permit was never obtained (Enforcement action may also apply)	\$265.00

2. No portion of the inspection/operating fee shall be refundable in the event the source discontinues operation or service during the permitted period.

C. Modification of a permit.

1. Any person making application to the Shelby County Health Department for the modification of a permit shall pay a fee for each permit unit being modified, except that no fee is required for modification of a permit to correct clerical, typographical, or calculations errors. This fee shall be set out as follows:

a.	If the modification is anticipated to result in an increase in all pollutants less than 10 tons per year	\$130.00
b.	If the modification is anticipated to result in an increase in all pollutants equal to or greater than 10 tons per year, but less than 50 tons per year	\$330.00
c.	If the modification is anticipated to result in an increase in all pollutants equal to or greater than 50 tons per year	\$660.00
d.	Name Change	\$130.00
e.	Ownership Change – New owner pays Inspection and Operating Fees (based on tonnage)	Varies based on Tonnage Fees
f.	Address Change – New owner pays Inspection and Operating Fees (based on tonnage) for the new address	\$265.00 Plus Tonnage Fees
g.	Permit Revision (with no emissions consequences)	\$130.00

D. Stack sampling.

1. If a source is required to demonstrate compliance by stack sampling its emissions, it shall pay the following additional fees:

a.	Any testing requiring U.S./EPA Methods 1 through 4 only, per stack test	\$130.00
b.	Particulate emissions testing requiring U.S./EPA Method 5, per stack test	\$400.00
c.	Any other pollution testing by methods other than U.S./EPA Method 5, (excepting those subject to subsection (D)(1)(a) of this section, per stack test)	\$660.00

2. Any retest required to demonstrate compliance shall be subject to the fee schedule as stated in subsections (D)(1)(a) through (c) of this section.

BE IT FURTHER ORDAINED BY THE COUNCIL OF THE CITY OF MEMPHIS, That the provisions of this ordinance are hereby declared to be severable. Should any of these sections, provisions, sentences, clauses, phases, words or parts be held unconstitutional or void, the remaining provisions shall continue in full force and effect.

BE IT FURTHER ORDAINED BY THE COUNCIL OF THE CITY OF MEMPHIS, That except as amended by this ordinance, the other sections of this Chapter in the City of Memphis Code of Ordinances shall remain in full force and effect.

BE IT FURTHER ORDAINED BY THE COUNCIL OF THE CITY OF MEMPHIS, That that this Ordinance shall take effect from and after the date it shall have been passed by the Council, signed by the Chairman of the Council, certified and delivered to the Office of the Mayor in writing by the Comptroller, and become effective as otherwise provided by law.

THE FOREGOING ORDINANCE
5581 PASSED
1st Reading 3-17-15
2nd Reading 4-7-15
3rd Reading 4-21-15
Approved: [Signature]
Chairman of Council
Date Signed: 5/15/15
Approved: [Signature] 15th
Mayor, City of Memphis
Date Signed: 5/19/15

I hereby certify that the foregoing is a true copy, and said document was adopted by the Council of the City of Memphis as above indicated and approved by the Mayor.

Valerie C. Snipes
Comptroller